IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

WP(C).No. 8734 of 2006(M)

AGAINST THE ORDER IN CMP 198/2005 IN
MC.361/1998 of FAMILY COURT, NEDUMANGAD

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PETITIONER:

VIJAYAN, S/O.THAMPI,
AGED 44, VANDOORKONAM,
VADAKKUMKARA PUTHEN VEEDU,
KALLUVARAMBU, POOVATHUR.P.O,
NEDUMANGAD, THIRUVANANTHAPURAM.

BY ADV. SRI.THIRUMALA P.K.MANI

RESPONDENTS:

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1. SUDHA, D/O.LEKSHMI,
VINEETHA BHAVAN, KAITHARAKONAM,
POOVATHUR.P.O, NEDUMANGAD,
THIRUVANANTHAPURAM.

2. VINEETHA, D/O.SUDHA,
AGED 14 (MINOR),
RESIDING AT DO. DO.

3. VIPIN, S/O.SUDHAN,
AGED 11 (MINOR),
RESIDING AT DO. DO.

BY ADV. SRI.BASANT BALAJI
SRI.K.B.PRADEEP
GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.C.NO.8734 OF 2006

EXT.P1:- TRUE COPY OF THE ORDER IN M.C.NO.361/98 OF FAMILY COURT, NEDUMANGAD DT.27.7.2001.

EXT.P2:- TRUE COPY OF CMP 198/05 IN M.C.361/98 FILED BY THE RESPONDENTS DT.29.8.2002.

EXT.P3:- TRUE COPY OF OBJECTION DT.4/3/2006 FILED BY THE PETITIONER.

EXT.P4:- TRUE COPY OF DIVORCE DEED DATED 14/3/1997.

EXT.P5:- TRUE COPY OF SETTLEMENT DEED DT.14/3/1997.

//TRUE COPY//

R.BASANT, J.

W.P.C.No.8734 of 2006

Dated this the 28th day of March 2007

JUDGMENT

The petitioner has suffered an order under Section 125 Cr.P.C to pay maintenance to his wife and children. The claimants had filed applications for execution. The petitioner entered appearance before the Family Court. He filed objections raising objections against the proposed execution of the order. The learned Judge of the Family Court reports that the objections were not placed before the learned Judge. There was no representation for the petitioner also. In these circumstances, direction was issued to execute the order. Warrants were issued against the petitioner. The learned Judge of the Family Court submits that it was an omission not to consider the objections raised.

2. During the pendency of this proceedings, an amount of Rs.15,000/- has already been deposited and has been directed to be released to the claimants. I am satisfied, in these circumstances, that it will only be appropriate to direct the learned Judge of the Family Court to consider the objections of

the petitioner against the proposed execution of the order under Section 125 Cr.P.C and pass appropriate orders.

3. In the result, this writ petition is allowed. The learned Judge of the Family Court shall dispose of Ext.P2 application afresh after considering the objections raised in Ext.P3 and after hearing both sides. The impugned direction is set aside.

4. This writ petition is allowed to the above extent.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006